

Justin S. Brooks  
jbrooks@gbblegal.com  
New Jersey Attorney I.D. # 006522012  
GUTTMAN, BUSCHNER & BROOKS PLLC  
1625 Massachusetts Avenue N.W., Suite 500  
Washington, DC 20036  
(302) 327-9210  
(202) 827-0041 (facsimile)

Richard A. Harpootlian\* (Fed. I.D. # 1730)  
rah@harpootlianlaw.com  
Christopher P. Kenney\* (Fed. I.D. # 11314)  
cpk@harpootlianlaw.com  
RICHARD A. HARPOOTLIAN, P.A.  
1410 Laurel Street  
Post Office Box 1040  
Columbia, South Carolina 29202  
(803) 252-4848  
(803) 252-4810 (facsimile)

Tobias G. Ward, Jr.\* (Fed. I.D. # 4520)  
tw@tobywardlaw.com  
TOBIAS G. WARD, JR., PA  
Post Office Box 6138  
Columbia, South Carolina 29260  
(803) 708-4200  
(803) 403-8754 (facsimile)

\*Admitted *pro hac vice*

ATTORNEY FOR PLAINTIFF PRIVATE SOLUTIONS, INC.

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

Private Solutions, Inc.,

Plaintiff,

v.

SCMC, LLC d/b/a Seneca SCMC, LLC,

Defendant.

C.A. No. 15-3241 (AET)(TJB)

(Motion Day: March 21, 2016, 9:00 a.m.)

---

**Plaintiff's Memorandum of Law in Support of Motion for Leave to  
Amend Pursuant to Fed. R. Civ. P. 15(a)**

---

Plaintiffs Private Solutions, Inc. (PSI) move for leave to amend the Complaint pursuant to Rule 15(a) of the Federal Rules of Civil Procedure. In support of this motion, PSI states as follows:

## **PROCEDURAL AND FACTUAL BACKGROUND**

On October 3, 2014, Plaintiff filed their Complaint in the District Court for the District of South Carolina alleging causes of action for breach of contract, breach of contract accompanied by fraud, and promissory estoppel. These allegations stem from a contract between PSI and Defendant SCMC, LLC d/b/a Seneca SCMC, LLC (SCMC), wherein PSI was to provide security and fraud protection services for construction sites operated by SCMC in New Jersey pursuant to the New Jersey Reconstruction, Rehabilitation, Elevation and Mitigation (RREM) program. On January 19, 2014, Defendant moved to transfer this matter to the District of New Jersey, and that motion was granted by Order of the Honorable G. Ross Anderson on May 8, 2015. By Order of the Honorable Tonianne J. Bongiovanni, the parties participated in mediation on September 28, 2015, but were not able to resolve the matter.

During the April 30, 2015 Rule 30(b)(6) deposition of SCMC, Plaintiff learned that SCMC is a wholly owned subsidiary of Seneca Holdings, LLC (Seneca Holdings), an entity that dominates the subsidiary Defendant. Accordingly, Plaintiffs seek to amend the complaint to join a veil piercing claim against Seneca Holdings.

## **ARGUMENT**

“The court should freely give leave [to amend] when justice so requires.” Fed. R. Civ. P. 15(a)(2). A district court should use its discretion to deny a motion to amend the pleadings “only if the party’s delay in seeking to amend is undue, motivated by bad faith, or prejudicial to the opposing party.” Marlowe Patent Holdings LLC v. Dice Elecs., LLC, 293 F.R.D. 688, 695 (D.N.J. 2013) (quoting Adams v. Gould, 739 F.2d 858, 864 (3rd Cir. 1984)). The touchstone for denial of a motion to amend the pleadings is prejudice to the non-moving party. Id. (quoting Schindler Elevator Corp. v. Otis Elevator Co., 2009 WL 1351578, at \*3, 2009 U.S. Dist. LEXIS 40994, at

\*9 (D.N.J. 2009)).

The proposed amendment seeks to join SCMC's parent company, Seneca Holdings, based on information learned through the modest discovery conducted to date. SCMC's Rule 30(b)(6) representative indicated that Seneca Holdings controls SCMC.<sup>1</sup> Seneca Holdings is believed to be the true party in interest, and joining it at this early stage of litigation causes no prejudice.

Based upon the foregoing, Plaintiff Private Solutions, Inc. respectfully requests leave of the Court to amend its complaint. Prior to filing this motion, the undersigned requested the Defendant's position concerning this motion and furnished opposing counsel with a copy Plaintiff's proposed Amended complaint. As of this filing, Defendant's position is unknown. A copy of Plaintiff's proposed Amended Complaint is attached here as **Exhibit A**.

Respectfully submitted by,

s/Justin S. Brooks  
Justin S. Brooks  
jbrooks@gbblegal.com  
New Jersey Attorney I.D. # 006522012  
GUTTMAN, BUSCHNER & BROOKS PLLC  
1625 Massachusetts Avenue N.W., Suite 500  
Washington, DC 20036  
(302) 327-9210  
(202) 827-0041 (facsimile)

Richard A. Harpootlian\* (Fed. I.D. # 1730)  
rah@harpootlianlaw.com  
Christopher P. Kenney\* (Fed. I.D. # 11314)  
cpk@harpootlianlaw.com  
RICHARD A. HARPOOTLIAN, P.A.  
1410 Laurel Street  
Post Office Box 1040  
Columbia, South Carolina 29202  
(803) 252-4848  
(803) 252-4810 (facsimile)

---

<sup>1</sup> For reasons currently pending before the Court, Plaintiff has not had an opportunity to fully explore the relationship between Seneca Holdings and SCMC. See Plaintiff's Motion for Sanctions for Failure to Comply with Rule 30(b)(6) of the Federal Rules of Civil Procedure, Dkt. No. 43.

Tobias G. Ward, Jr.\* (Fed. I.D. # 4520)  
tw@tobywardlaw.com  
TOBIAS G. WARD, JR., PA  
Post Office Box 6138  
Columbia, South Carolina 29260  
(803) 708-4200  
(803) 403-8754 (facsimile)

\*Admitted *pro hac vice*  
ATTORNEYS FOR PLAINTIFF

February 16, 2016.